

Colorado Revised Statutes §24-65.5-101 et seq. requires development applicants to give notice to mineral estate owners 30 days before the date scheduled for the initial public hearing by the local government on the application for development. In addition to the 30-day notice, please note the following requirements:

1. Notice by certified mail or recognized overnight courier. Development applicants must send the required notice by certified mail, return receipt requested, or by a nationally recognized overnight courier service, rather than by first class mail.
2. Notice to mineral estate owners includes legal description. The applicant must provide the location and the legal description by section, township and range.
3. Notice sent to the local government includes name and address of mineral estate owners. The applicant must provide the City of Dacono a list which includes the names and addresses of the mineral estate owners to whom the notices were sent, rather than just the names and addresses of the mineral estate owners.
4. Timing of certification to local government. The statute requires the certification occur before the initial public hearing is convened. The certification will need to be given to the City prior to the commencement of the initial public hearing, and a record of the certification is made at the outset of the hearing.
5. Condition of final approval. The City of Dacono requires the certification as a condition of final approval and that the applicant certifies compliance with certain requirements pertaining to “qualifying surface developments.” Approval of an application without the certification shall be suspended and shall not constitute a valid final approval until the certification is given, proper proceedings are held, and the approval is confirmed, amended, or revoked in response to the certification. This obligation to suspend an approval applies when a mineral estate owner has timely appeared or filed an objection. Also, as applied to Dacono’s land use process, a new preliminary hearing would be required even though the application has advanced through the final hearing process.
6. Qualifying Surface Developments. A new certification is required if a development is a “qualifying surface development.” A qualifying surface development is an application for development covering at least 152 gross acres within the Greater Wattenberg Area, including any applications for development filed by affiliates sharing a common boundary, in whole or in part. C.R.S. §24-65.5-102(5.7). Therefore, a qualifying surface development would include individual filings for a project of at least 152 acres even if the particular filing is less than 152 acres. The Greater Wattenberg Area means those lands from and including townships 2 south to 7 north and ranges 61 west to 69 west of the sixth principal meridian, thus including Dacono. C.R.S. §24-65.5-102(2.8).
7. Required confirmation prior to recording final plat. In addition to the certification required as a condition of final approval regarding qualifying surface developments, the applicant in a qualifying surface development must also provide the City of Dacono confirmation prior to recording the final plat that the applicant has deposited into an escrow account maintained at an approved commercial financial institution the amount determined under C.R.S. §24-65.5-103.7 to defray incremental drilling costs to be incurred by the mineral estate owners for drilling wells to prospective formations accessible from the oil and gas operations area that could otherwise have been vertically drilled within drilling windows established by the Colorado Oil and Gas Conservation Commission (Commission). Alternatively, the applicant can post either a letter of credit or other security as determined by the Commission.